

Sr. No.123

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-15155-2019(O&M)
Date of decision:02.04.2019**

Baljit Kaur

.....Petitioner

versus

State of Punjab and another

.....Respondents

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Gurpartap Siingh Gill, Advocate
for the petitioner.

Rajbir Sehrawat, J(Oral)

Present petition has been filed for quashing of summoning Order; passed under Section 319 Cr.P.C, dated 29.05.2017(Annexure P-2) and Order dated 18.02.2019(Annexure P-5); whereby the petitioner has been declared proclaimed person in FIR No.125, dated 18.06.2012 for the offences punishable under Sections 323,336,506,148,149 IPC at Police Station Sadar Jagraon, District Ludhiana(Rural).

At the outset, learned counsel for the petitioner submits that he has the instructions to restrict the present petition to challenge to the Order dated 18.02.2019(Annexure P-5) whereby the petitioner has been declared as proclaimed person in FIR No.125, dated 18.06.2012 for the offences punishable under Sections 323,336,506,148,149 IPC at Police Station Sadar Jagraon, District Ludhiana(Rural), and not press the same qua challenge to summoning Order dated 29.05.2017(Annexure P-2).

Accordingly the present petition is entertained only qua challenge to the Order dated 18.02.2019(Annexure P-5); whereby the petitioner has been declared as proclaimed person.

Learned counsel for the petitioner has submitted that although the petitioner was in India when the alleged incident had taken place. However, the petitioner was not connected with the incident at all. Hence during the investigation, the petitioner was declared innocent. Thereafter, the petitioner had gone abroad. The petitioner was continuously abroad during the period. However, in the mean-time, the Court had passed Order under Section 319 Cr.P.C summoning the petitioner as additional accused and the petitioner has been declared as proclaimed person. The petitioner came to know of this fact only when she returned to India on 26.03.2019. It is contended by the counsel that since the petitioner had, throughout, been abroad, therefore, she was not served with any notice, summon or warrants issued by any Court of law. Hence there has not been any proper compliance of the procedure under Section 82 Cr.P.C before passing the impugned order. However, since the petitioner has now come to know of the proceedings, therefore, she does not intend to flee from the course of justice. Rather she intend to appear before the Trial Court; to face further proceedings, in accordance with law. The only prayer is that the petitioner be protected from the arrest.

Notice of motion.

On the asking of the Court, Shri K.S.Aulakh, DAG, Punjab accepts notice on behalf of the State of Punjab and submits that he has no objection if the petitioner appears before the Trial Court

The objective of the coercive mechanism prescribed under the Code of Criminal Procedure is to ensure that the accused remains present before the Court to receive the orders and punishments as are passed qua the accused. If the accused shows his sincere intention and desire to appear

before the Court, then it would not be unjustified to protect him from being arrested.

In view of the above, the present petition is allowed and the impugned order is quashed subject to the petitioner appearing before the trial Court on or before 12.04.2019. It is further directed that in case, the petitioner so appears before the trial Court then the petitioner shall be released on bail on his furnishing bail bond/surety to the satisfaction of the Trial Court.

2nd April, 2019

Shivani Kaushik

**[RAJBIR SEHRAWAT]
JUDGE**

Whether speaking/reasoned *Yes/No*

Whether Reportable *Yes/No*